

precedent and require the Chair to overrule the Parliamentarian. Is this how we want to govern the Senate? Do Republicans want to blatantly break the rules for some kind of a short-term political gain?

Just as the Constitution provides in Article V for a method of amendment, so, too, the Senate Rules provide for their own amendment. Sadly, the current crop of zealot partisans who are seeking to limit debate and minority rights in the Senate have no respect for the Senate, its role in our government as a check on the executive or its Rules. Republicans are in the majority in the Senate and chair all of its Committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate Rules, they should introduce it. The Rules Committee should hold serious hearings on it and consider it and create a full and fair record so that the Senate itself would be in position to consider it. That is what we used to call "regular order." That is how the Senate is intended to operate, through deliberative processes and with all points of view being protected and being able to be heard.

That is not how the "nuclear option" will work. It is intended to work outside established precedents and procedures as explained by the Congressional Research Service report from last month. Use of the "nuclear option" in the Senate is akin to amending the Constitution not by following the procedures required by Article V but by proclaiming that 51 Republican Senators have determined that every copy of the Constitution shall contain a new section or different words—or not contain some of those troublesome amendments that Americans like to call the Bill of Rights. That is wrong. It is a kind of lawlessness that each of us should oppose. It is rule by the parliamentary equivalent of brute force.

The recently constituted Iraqi National Assembly was elected in January. In April it acted pursuant to its governing law to select a presidency council by the required vote of two-thirds of the Assembly, a supermajority. That same governing law says that it can only be amended by a three-quarters vote of the National Assembly. Use of the "nuclear option" in the Senate is akin to Iraqis in the majority political party of the Assembly saying that they have decided to change the law to allow them to pick only members of their party for the government and to do so by a simple majority vote. They might feel justified in acting contrary to law because the Kurds and the Sunni were driving a hard bargain and because governing through consensus is not as easy as ruling unilaterally. It is not supposed to be, that is why our system of government is the world's example.

If Iraqi Shiites, Sunni and Kurds can cooperate in their new government to make democratic decisions, so can Republicans and Democrats in the United

States Senate. If the Iraqi law and Assembly can protect minority rights and participation, so can the rules and United States Senate. That has been the defining characteristic of the Senate and one of the principal ways in which it was designed to be distinct from the House or Representatives.

This week, the Senate is debating an emergency supplemental appropriations bill to fund the war efforts in Iraq and Afghanistan. The justification for these billions of dollars being spent each week is that we are seeking to establish democracies. How ironic that at the same time we are undertaking these efforts at great cost to so many American families, some are seeking to undermine the protection of minority rights and checks and balances represented by the Senate through our own history. Yet that is what I see happening.

President Bush emphasized in his discussions earlier this year with President Putin of Russia that the essentials of a democracy include protecting minority rights and an independent judiciary. The Republican "nuclear option" will undermine our values here at the same time we are preaching our values to others abroad.

I urge Senate Republicans to listen carefully to what their leaders are saying, here in the Senate, and out across the country to their most extreme supporters. Consider what it is they are about to do and the language they use to justify it. Both are wrong. It would steer the Senate and the country away from democracy, away from the protections of the minority and away from the checks and balances that ensure the freedoms of all Americans.

I would also like to talk for a moment about the independence of the judiciary. I have expressed my concern that members of Congress have suggested judges be impeached if they disagree with the judges' decisions. Republicans rushed through legislation telling federal judges what to do in the Schiavo case, and then criticized the judges when they acted independently, judges appointed by President Reagan, by former President Bush, and by President Clinton. They were all criticized for that, although there are still those who are saying we should impeach the judges, or as I mentioned earlier in my speech, one speaker at a recent conference, to the cheers of some suggested Joseph Stalin's famous "No man. No problem" solution, because he killed those who disagreed.

I remember a group of Russian parliamentarians came to see me to talk about federal judiciary, and they asked, "Is it true that in the United States the government might be a party in a lawsuit and that the government could lose?" I said, "Absolutely right." They said, "People would dare to sue the government?" I said, "We have an independent judiciary, yes, they could." They said, "Well, if the government lost, you fire the judges, of course?" I said, "No, they are an inde-

pendent judiciary." And I remember the discussion around the conference room in my office. This was the most amazing thing to them, that the people who disagreed with the government could actually go to a federal court or a state court, bring a suit there and seek redress even if it meant the government lost. Sometimes it wins, sometimes it loses. I was a government prosecutor. I know how that works. I think they finally understood that the reason we are such a great democracy is that we have an independent judiciary.

I would call out to my friends on the other side of the aisle to stop slamming the federal judiciary. We don't have to agree with every one of their opinions but let's respect their independence. Let's not say things that are going to bring about further threats against our judges. We've had a lot more judges killed than we've had U.S. Senators killed for carrying out their duties. We ought to be protecting them and their integrity. If we disagree with what they've done in a case where we can pass a law and we feel we should, then pass a law and change it. Don't take the pot shots that put all judges in danger and that attack the very independence of our federal judiciary.

We remember our own oath of office. Part of upholding the Constitution is upholding the independence of the third branch of government. One party or the other will control the presidency. One party or the other will control each House of Congress. No political party should control the judiciary. It should be independent of all political parties. That was the genius of the founders of this country. It is the genius that has protected our liberties and our rights for well over 200 years. It is the genius of this country that will continue to protect them if we allow it to. It would be a terrible diminution of our rights and it would be one of the most threatening things to our whole democracy if we were to remove the independence of our federal judiciary. That would do things that no armies marched against us have ever been able to do. None of the turmoil, the wars, all that we've gone through in this country has ever been able to do. If you take away the independence of our federal judiciary, then our whole constitutional fabric unravels.

I will close with one little story. One day, years ago, on the floor of this Senate, there was an attempt, in a court-stripping bill, to remove jurisdiction of the Federal courts because one Senator did not like a decision they came down with. It was decided if there had not been a vote by 4 o'clock on a Friday afternoon, we would not vote on it. So three Senators took the floor to talk against it—myself, former Republican Senator, Lowell Weicker of Connecticut, and one other. We spoke for several hours, and the bill was drawn down.

Now, I do not remember what the decision was of the Federal court.